

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN**

In Re: Cost Less Distributing, Inc.

Chapter 11 (Subchapter V)

Case No. 24-31912

Hon. Joel D. Applebaum

Debtor.

_____ /

**KAY FINANCIAL LLC'S OBJECTION
TO CONFIRMATION OF DEBTOR'S CHAPTER 11 SUBCHAPTER V
PLAN OF REORGANIZATION**

NOW COMES, Creditor, Kay Financial LLC ("Creditor KAY"), by and through its attorneys Bankruptcy Law Office by George E. Jacobs and for its objection to confirmation of the Chapter 11 Subchapter V Plan of Reorganization (Doc #57) (the " Plan") filed by Debtor Cost Less Distributing, Inc. (the "Debtor"), states as follows:

1. Debtor is indebted to Creditor KAY for two secured loans. Loan #1 is a secured claim in the amount of \$722,060.76 (see claim #11). Loan #2 is a secured loan in the amount of \$394,923.24 (See claim #10).
2. The loans arise out of a series of loan transactions between Kay and the Debtor entered into in 2022 and 2023 where in Kay loaned the Debtor funds to purchase real property and for business operations.
3. The Debtor filed its plan on January 6, 2025. For the reasons set forth in this objection to confirmation of Debtor's plan should be denied and this case converted to chapter 7.
4. The plan has been filed in bad faith as the Debtor's actions in procurement of loan #2 (claim #10) constitute bad faith:
 - A. On May 8, 2023 Kay and the Debtor signed a series of loan documents wherein the Debtor borrowed the sum of \$400,000 from Kay for the purchase of real property located at 2122 Hemphill Road, Burton, Michigan (see claim attached as Exhibit).
 - B. That the parties prepared for recording, a mortgage on said property to be recorded on the date of closing the transaction.
 - C. That the Debtor did not use the funds as borrowed for the purchase of the Hemphill property but instead converted those funds to its own use for other purposes.
 - D. That said actions by the Debtor are fraudulent and constitute bad faith.

5. Debtor's plan fails the best interest of creditors test. Per the claims filed by Kay it is owed the sum total of \$1,116,935. Pursuant to its filed claims, these loans are secured by mortgages on real property located at 3302 Associates Blvd., Burton, Michigan. Debtor's plan alleges that this real property has a value of \$600,000. The Debtor is in the process of completing its appraisal of the property. It has been informed by its appraiser that the value of the property is in excess of \$600,000 pending completion of the appraisal.
6. Debtor's plan fails to provide for unsecured creditors and all disposable income for the life of the plan to its creditors its required by statute. Specifically, Kay submits that the Debtor will make more money than as set forth in its projections and submits that the plan should provide for a mechanism with Debtor providing quarterly financials to creditors post confirmation to guarantee that all disposable income is paid to creditors.

WHEREFORE, Creditor KAY Financial LLC hereby requests that this Honorable Court decline to confirm of the Plan filed by Debtor Cost Less Distributing, Inc. and convert this case to chapter 7.

Dated: 2-6-25

Respectfully submitted,

/s/ George E. Jacobs

George E. Jacobs (P36888)
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**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF MICHIGAN-SOUTHERN DIVISION**

In Re: Cost Less Distributing, Inc.

Case No. 24-31912

Chapter 13

Hon. Applebaum

Debtor
_____/

PROOF OF SERVICE

STATE OF MICHIGAN)
)SS.
COUNTY OF GENESEE)

THE UNDERSIGNED, being first duly sworn, deposes and says that she is employed at the law firm of Bankruptcy Law Office, and on the 6th day of February, 2025, she served upon:

Peter T. Mooney
Simen, Figura & Parker
5206 Gateway Centre
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Flint, MI 48507
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Kelley Callard (UST)
United States Trustee
211 West Fort Street
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Email: Kelley.Callard@usdoj.gov

Trustee

Kimberly Ross Clayson
Taft Stettinius & Hollister, LLP
27777 Franklin Rd. Suite 2500
Southfield, MI 48034

a copy of the Kay Financial LLC's Objection to Confirmation of Debtor's Chapter 11 SubChapter V Plan of Reorganization by placing same in an envelope addressed to the said addressee and by depositing said envelope in the United States Mail in a mail receptacle in Flint, Michigan, with first-class postage fully paid thereon.

SUBSCRIBED AND SWORN to before
me, a Notary Public in and for said county,
this 6th day of February, 2025

/s/ Laurie Otis
Laurie Otis, Notary Public
Genesee County, Michigan
My commission expires: 10/28/29

/s/ Sarah Stefek
Sarah Stefek
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